



ATTORNEY DOCKET NO. 1671-0004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark J. Weiser

Serial No.: 09/842,963

Filed: April 27, 2001

For: **DEVICE FOR CONTAINING ANIMAL REPELLANT AND ATTRACTANT COMPOSITIONS**

Group Art Unit: 1616

Examiner: Neil Levy

Assistant Commissioner for Patents

Attention: Office of Petitioner

Box DAC

Washington, D.C. 20231

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MAR 13 2003

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**DECLARATION OF MARK J. WEISER**

1. I am the sole inventor of United States Patent Application Serial No. 09/842,963.

2. This declaration is submitted in support of the Petition for Revival of Unintentionally Abandoned Application under 35 C.F.R. § 137(b) (the "Petition").

3. When the present application was filed, I was represented by George C. Atwell.

4. In January of 2003, after repeated attempts to contact Attorney Atwell to discuss the present application were not successful, I retained Metz Lewis LLC and attorneys Barry Friedman and Philip Levy to assume prosecution of the present application.

5. At my request and with my authorization, Attorney Levy obtained a copy of the Patent and Trademark Office file for the present application. Attorney Levy informed me that, on February 5, 2002, the Patent and Trademark Office had mailed an Office Action to Attorney Atwell that required restriction between Group I, claims 1-16, Group II, claims 17-22, and Group III, claim 23, of the present application and an election of species. Attorney Levy also informed me that because no reply to the February 5, 2002 Office Action had been filed, the Patent and Trademark Office mailed a Notice of Abandonment on September 10, 2002, indicating that the present application had been abandoned.

6. My conversation with Attorney Levy was the first time that I had been informed of the February 5, 2002 Office Action and the abandonment of the present application. I never received a copy of the February 5, 2002 Office Action or the Notice of Abandonment from Attorney Atwell.

7. I never had any desire or intention to abandon the present application. The entire delay from the date on which a response to the February 5, 2002 Office Action was due until the filing of the Petition was unintentional. Upon learning of the facts leading to the abandonment of the present application, I immediately requested that Attorney Levy prepare and file the Petition.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title

18 of the United States Code, and that such willful false statements may jeopardize the validity of the present application or any patent that issues thereon.

Date: 1-30-03

Mark J. Weiser

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